

Thomas Jefferson to Congress, March 1808, from The Works of Thomas Jefferson in Twelve Volumes. Federal Edition. Collected and Edited by Paul Leicester Ford.

MESSAGE ON PUBLIC DEFENCE¹

1 Madison's Paragraph

“Incapable of giving a valid consent to their alienation, in others belong to persons who may refuse altogether to alienate, or demand a compensation far beyond the liberal justice allowable in such cases. From these causes the defence of our seaboard, so necessary to be pressed during the present season, will in various parts be defeated, unless a remedy can be applied. With a view to this I submit the case to the consideration of Congress, who estimating its importance & reviewing the powers vested in them by the constitution combined with the amendment providing that private property shall not be taken for public use, without just compensation, will decide on the course most proper to be pursued.

“I am aware &c.

“(For consideration) As the constitutionality will be much agitated, it is doubted whether a precise opinion on that or the legal process be eligible.”

Indorsed “Dept. of State recd Mar. 24 08 Message for Sites.”

[Mar.? 1808.]

In proceeding to carry into exn the act &c. it is found that the sites most advantageous for the defense of our harbors and rivers, and sometimes the only sites competent to that defense are in some cases the property of minors incapable of giving a valid consent to

Library of Congress

their alienation, in others belong to persons who on no terms will alienate, and in others the proprietors demand such exaggerated compenssn as, however liberally the public ought to compensate in such cases, would exceed all bounds of justice or liberality. From this cause the defense of our seaboard, so necessary to be pressed during the present season will in various parts be defeated, unless the national legislature can apply a constitutional remedy. The power of repelg invasions, and making laws necessary for carrying that power into execution seems to include that of occupyg those sites which are necessary to repel an enemy; observing only the amendment to the constitution which provides that private property shall not be taken for public use without just compensation. I submit therefore to the consideration of Congress, where the necessary sites cannot be obtained by the joint & valid consent of parties, whether provision should be made by a process of *ad quod damnum*, or any other more eligible means for authorizing the sites which are necessary for the public defence to be appropriated to that purpose.

I am aware that as the consent of the legislature of the

state to the purchase of the site may not, in some instances have been previously obtained, exclusive legislation cannot be exercised therein by Congress until that consent is given. But in the meantime it will be held under the same laws which protect the property of individuals in that state and other property of the U. S. and the legislatures at their next meetings will have opportunities of doing what will be so evidently called for by the interest of their own state.